

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 14471 OF 2022

Pravati Pani

.....

Petitioner

Mr. Rabinarayan Nayak, Advocate

-versus-

Authorized Officer-cum-Asst.

....

Opp. Parties

Conservator of Forests, Cuttack Forest

Division and another

Mr. A.R. Dash,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

26.07.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 26th April, 2022 passed by learned 3rd Additional District Judge, Cuttack in FAO No. 31 of 2021, whereby he allowed the appeal and remitted the matter back to the Authorized Officer for fresh adjudication of the Confiscation Proceeding Case No. 11 of 2021 (arising out of O.R. Case No.109-D of 2019-20 of Dalijoda Range).
3. Mr. Nayak, learned counsel for the Petitioner submits that deposition of the witnesses recorded by the Authorized Officer was not sealed and signed by him. Thus, it is an incurable defect and vitiates the entire trial. He further submits that under Section 56 of the Orissa Forest Act, the seized property ought to have been produced before the Authorized Officer during the confiscation proceeding, which was not done. These aspects were not considered by the appellate court while adjudicating the appeal. If the impugned order is implemented, the Authorized Officer will be in a position to rectify the

incurable defect and pass an order to confiscate the vehicle of the Petitioner. He, therefore, prays for setting aside the impugned order and to remit the matter back to learned appellate court for fresh adjudication.

4. Mr. Dash, learned Additional Government Advocate vehemently objects to the same and submits that although the depositions were recorded and signed by the witnesses, but the Authorized Officer inadvertently did not put his signature and seal. The same is a curable defect, more particularly when the Petitioner does not challenge the authenticity of such statements. He further submits that since the Petitioner has never prayed for production of the seized vehicle before the Authorized Officer during the confiscation proceeding, occasion to produce the vehicle did not arise at all during the confiscation proceeding.

5. Taking into consideration the rival contentions of the parties, this Court is of the considered opinion that putting seal and signature of the Authorized Officer in the deposition, which was signed by the parties, is a curable defect, more particularly when the Petitioner does not challenge the authenticity of such statements. Further, the Petitioner will get an opportunity before the Authorized Officer to raise objection to the admissibility of such statements and depositions. Production of the vehicle before the Authorized Officer was never sought for by the Petitioner during the confiscation proceeding. Learned counsel for the Petitioner also does not make it clear as to why production of the vehicle was necessary for just adjudication of the confiscation proceeding.

6. In that view of the matter, I find no infirmity in the impugned order. Accordingly, the writ petition being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

